

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ROBERTO CABRERA ESQUIVEL, #41078-018

PLAINTIFF

VS.

CIVIL ACTION NO. 5:08-cv-242 (DCB) (MTP)

CONSTANCE REESE, ET AL.

DEFENDANTS

ORDER

This cause is before the Court on the plaintiff's untitled response (**docket entry 23**) to the Court's Order and Judgment of September 30, 2009. Because the plaintiff is a prisoner proceeding pro se, and because his response is dated October 12, 2009, the Court shall treat it as a motion to alter or amend the judgment pursuant to Fed.R.Civ.P. 59(e).

The Order of September 30, 2009, adopts Magistrate Judge Michael T. Parker's Report and Recommendation which finds that the plaintiff failed to fulfill the requirements of the Bureau of Prisons' Administrative Remedy Program, thus he failed to exhaust his administrative remedies. A motion to alter or amend that reiterates issues originally raised in the complaint and seeks to challenge the legal correctness of the judgment by arguing that the Court misapplied the law or misunderstood the plaintiff's position correctly is asserted pursuant to Rule 59(e). Upon consideration of the motion and the entire file, the Court finds that the plaintiff fails to demonstrate any reason why the Court should alter or amend the September 30, 2009 Order and Judgment, and the plaintiff's motion shall be denied. Accordingly,

IT IS HEREBY ORDERED that the plaintiff's untitled response

(docket entry 23) to the Court's Order and Judgment of September 30, 2009, which the Court treats as a motion to alter or amend the judgment pursuant to Fed.R.Civ.P. 59(e), is DENIED.

SO ORDERED, this the 13th day of April, 2010.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE